

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

CISPER DA AMAZONIA, S.A.,

Plaintiff

v.

OWENS-ILLINOIS DE PUERTO RICO,  
LLC,

Defendant

CIVIL NO. 09-1041 (JAF)

REVALIDATION/DOMESTICATION  
(EXEQUATUR) OF DELAWARE  
JUDGMENT FOR COLLECTION OF MONEY

MOTION FOR DEFAULT ENTRY

TO THE HONORABLE COURT:

COMES NOW plaintiff Cisper Da Amazonia, S.A. ("CASA"), through its undersigned counsel, and respectfully shows:

1. The Defendant herein, Owens-Illinois de Puerto Rico, LLC ("OIPR-LLC") was served a true copy of the Summons and Complaint herein, on January 22, 2009, by delivery to its Registered Agent pursuant to the laws of Delaware<sup>1</sup>, National Registered Agents, Inc., located at 160 Greentree Dr., Suite 101, Dover, DE 19904. See, Rule

<sup>1</sup> Delaware Limited Liability Company Act § 18-105, Del. Code Ann. Tit. 6, § 18-105 (2008), addressing service of process on domestic limited liability companies, provides:

(a) Service of legal process upon any domestic limited liability company shall be made by delivering a copy personally to ...any manager of the limited liability company in the State of Delaware or the registered agent of the limited liability company in the State of Delaware..."

Such service is considered actual delivery, not merely constructive. Interpreting the identical provisions of the Delaware General Corporation Law, the Delaware courts have long considered that service on a registered agent is no different from service in hand to the president of the corporation. Penn Central Light & Power Co. v. Central Eastern Power Co., 171 A. 332, 335 (Del. 1934). See also, Peterson v. Sealed Air Corp., 902 F.2d 1232, 1237 (7th Cir. 1990); Kolyba Corp. v. Banque Nationale De Paris, 316 A.2d 585, (Del. 1973).

4 (h) (1) (B), Fed.R.Civ.P., and Proof of Service, Docket No. 4. See also, webpages from Secretary of State of Delaware as of March 24, 2009 and August 11, 2008, confirming Delaware as OIPR-LLC's jurisdiction of organization and the identity of its registered agent, hereto attached as composite **Exhibit A**.

2. The time for OIPR-LLC to answer or otherwise move in response to the Complaint, expired not later than February 11, 2009. See, Docket No. 4. Rule 12(a)(1)(A)(i). Fed.R.Civ.P.

3. Additionally, from an abundance of caution, after repeated efforts, Plaintiff CASA by counsel effected delivery through Federal Express on February 25, 2009 of a true copy of the summons and complaint, to Mr. Carlos Bermúdez, OIPR-LLC's known President and General Manager, who is located at Industrias Zanzibar, Autopista Duarte, Km. 2.8, Santo Domingo, República Dominicana. See, Declaration of Ubaldo Fernández-Barrera, hereto attached as **Exhibit B** and attachments thereto.

4. As of March 24, 2009, Defendant OIPR-LLC has neither answered the Complaint, nor otherwise moved in response thereto.

5. Rule 55, Fed.R.Civ.P., provides for the entry of default by the Clerk against any party who has failed to plead or otherwise defend.

6. Counsel will update its review of records to ascertain if the Delaware courts show any indication of payment upon the Delaware judgment or execution there, and then move for default judgment as soon as practicable after default entry herein.

WHEREFORE, OIPR-LLC having failed to answer or otherwise move, plaintiff Cisper Da Amazonia requests entry of default against

relief as may be just.

RESPECTFULLY SUBMITTED.

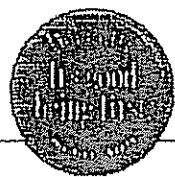
In San Juan, Puerto Rico, this 25<sup>th</sup> day of March, 2009.

O'NEILL & BORGES  
Attorneys for Cisper Da Amazonia  
250 Muñoz Rivera Avenue, Suite 800  
San Juan, PR 00918-1813  
Tel. (787) 764-8181  
Fax. (787) 753-8944

By: s/ David P. Freedman  
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Email: David.Freedman@oneillborges.com

By: s/ Ubaldo M. Fernandez  
Ubaldo M. Fernández  
USDC No. 224807  
Email: Ubaldo.Fernández@oneillborges.com

## **EXHIBIT A**



# State of Delaware

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## Entity Details

### THIS IS NOT A STATEMENT OF GOOD STANDING

<u>File Number:</u>	3405446	<u>Incorporation Date /</u>	07/02/2001
		<u>Formation Date:</u>	(mm/dd/yyyy)
<u>Entity Name:</u>	OWENS-ILLINOIS DE PUERTO RICO, LLC		
<u>Entity Kind:</u>	LIMITED LIABILITY COMPANY (LLC)	<u>Entity Type:</u>	GENERAL
<u>Residency:</u>	DOMESTIC	<u>State:</u>	DE
<u>REGISTERED AGENT INFORMATION</u>			
<u>Name:</u>	NATIONAL REGISTERED AGENTS, INC.		
<u>Address:</u>	160 GREENTREE DRIVE SUITE 101		
<u>City:</u>	DOVER	<u>County:</u>	KENT
<u>State:</u>	DE	<u>Postal Code:</u>	19904
<u>Phone:</u>	(302)674-4089		

Additional Information is available for a fee. You can retrieve Status for a fee of \$10.00 or more detailed information including current franchise tax assessment, current filing history and more for a fee of \$20.00.

Would you like  Status  Status, Tax & History Information

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		<a href="#">Formation Date:</a>	
<a href="#">Entity Name:</a>	OWENS-ILLINOIS DE PUERTO RICO, LLC		
<a href="#">Entity Kind:</a>	LIMITED LIABILITY COMPANY (LLC)	<a href="#">Entity Type:</a>	GENERAL
<a href="#">Residency:</a>	DOMESTIC	<a href="#">State:</a>	DE

## REGISTERED AGENT INFORMATION

<a href="#">Name:</a>	NATIONAL REGISTERED AGENTS, INC.		
<a href="#">Address:</a>	160 GREENTREE DRIVE SUITE 101		
<a href="#">City:</a>	DOVER	<a href="#">County:</a>	KENT
<a href="#">State:</a>	DE	<a href="#">Postal Code:</a>	19904
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## **EXHIBIT B**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

CISPER DA AMAZONIA, S.A.,

CIVIL NO. 09-1041 (JAF)

Plaintiff

v.

OWENS-ILLINOIS DE PUERTO RICO,  
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REVALIDATION/DOMESTICATION  
(EXEQUATUR) OF DELAWARE  
JUDGMENT FOR COLLECTION OF MONEY

Defendant

DECLARATION OF UBALDO FERNANDEZ-BARRERA

UBALDO M. FERNANDEZ-BARRERA, respectfully declares:

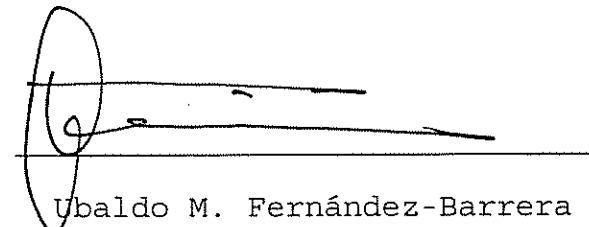
1. I am one of the counsel for Plaintiff Cisper Da Amazonia, S.A. ("CASA").
2. CASA and its counsel elected to provide notice in addition to that required by law, by delivery of an additional copy of the summons and complaint, to the known President and General Manager of the Defendant Owens-Illinois de Puerto Rico LLC (OIPR-LLC), Mr. Carlos Bermudez, who currently lives in, and works in the Dominican Republic at Industrias Zanzibar, Autopista Duarte, Km. 2.8, Santo Domingo, República Dominicana. I obtained this information from, among other sources, Mr. Hector Negrón, the former Administration Manager of OIPR-LLC.
3. I sent by registered mail on February 9, 2009 a true copy of the summons and complaint to Mr. Bermudez at Industrias Zanzibar, Autopista Duarte, Km. 2.8, Santo Domingo, República Dominicana (Dominican Republic). I received no indication of

delivery. See, Exhibit 1, attached to this declaration.<sup>1</sup>

4. Consequently, I resent on February 17, 2009, by Global Express Guaranteed, another copy of the summons and complaint to Mr. Carlos Bermudez through International Federal Express at the same location stated above. Subsequent to March 1, 2009, I was able to confirm and did observe from the USPS website, that delivery was made to that location at 3:33 PM on February 25, 2009, and the documents showing that delivery are attached to this declaration as Exhibit 2.

I declare under penalty of perjury that the foregoing is true and correct.

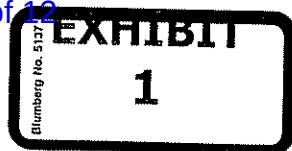
Executed in San Juan, Puerto Rico, on March 24, 2009.



Ubaldo M. Fernández-Barrera

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<sup>1</sup> As of March 24, 2009, the USPS website shows no information other than the registered mailing's departure from a USPS Miami service center, reflected on the second page of Exhibit 1.



Registered No.

To Be Completed By Post Office		Reg. Fee \$ 10.80	Special Delivery \$ 2.20	Date Stamp
		Handling Charge \$ 0.00	Return Receipt \$ 0.00	0018
		Postage \$ 3.45	Restricted Delivery \$ 0.00	FEB 03 9 2009
		Received by		02/09/09
		Customer Must Declare Full Value \$ 0.00		Domestic Insurance Is Limited To \$25,000; International Indemnity Is Limited (See Reverse)
		<input type="checkbox"/> With Postal Insurance <input type="checkbox"/> Without Postal Insurance		
To Be Completed By Customer (Please Print) All Entries Must Be In Ballpoint or Typed		<b>FROM</b> Lcdo. Waldo Fernández Obregón & Díaz American Intercontinental, 250 Mlning Riviera San Juan, PR 00918-1813  <b>TO</b> Owens Illinois de Puerto Rico C/o Industries Zanzibar S.A. Rep. Dominicana, Presidente Autopista Dueleto Km. 28 Sanv Domingo, República Dominicana		

PS Form 3806, Receipt for Registered Mail (Customer Copy)  
 June 2000 (See Information on Reverse)



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### Search Results

Label/Receipt Number: RB54 5773 967U S  
Status: International Dispatch

Your item left the United States from ISC MIAMI FL (USPS) at 6:32 PM on February 11, 2009. No further information is available for this item.

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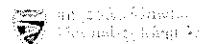
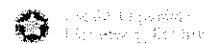
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No FEAR Act EEO Data

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Label/Receipt Number: 8280 2687 21

Status: Shipment Delivered

Your shipment was delivered at 3:33 PM on February 25, 2009 in  
SANTO DOMINGO, DOMINICAN REPUBLIC.[Additional Details >](#) [Return to USPS.com Home >](#)

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Enter Label/Receipt Number.

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UNITED STATES POSTAL SERVICE

## GXG International Air Waybill

International delivery  
by FedEx ExpressFrom Postmaster/President 02/07/09To Customer PhoneName O'Neill & SonsAddress American International PlazaAddress 250 Muñoz Rivera Ave., Ste. 800City San Juan State PRCountry USA ZIP Code 00918-1513To Recipient's Name Oasis Illinois de Puerto RicoPhone CP Industries Zaníbar, S.A.Name Carlos Fernández Fax (500) 762-1000Address Autopista Duarre, KM. 28Address Dominican RepublicName Santo Domingo State ProvinceZIP Code Postal Code

Recipient's Tax ID Number for Customs Purposes (if applicable)

For tracking go to the USPS Web site at  
[www.usps.com/shipping/trackandconfirm.htm](http://www.usps.com/shipping/trackandconfirm.htm)  
or call 1.800.222.1811.

## 3 Shipment Information

<input type="checkbox"/> Documents Confidential source and intermittent	<input type="checkbox"/> Non-Documents General. Recipient may be required to pay import duties and taxes. This shipment may be subject to inspection.
Specific Description including Number of Each Item (and harmonized code if known) <u>Documents</u>	
Country of Manufacture <u>MA</u>	Value for Customs (U.S.) DETERMINED <u>N/A</u>
Warning: These commodities, technology, or software is exported from the United States in accordance with Export Administration Regulations. Diversion contrary to U.S. law prohibited.	
Total Value for Customs (U.S.) <u>N/A</u>	

4 Required Signature  
I agree that the USPS terms and conditions (on the back of the Sender's Copy of this Air Waybill and in the Global Express Guaranteed Service Guide) and certain international treaties, including the Warsaw Convention, where applicable, apply and limit the liability of USPS and FedEx for loss and damage. I also understand that USPS and FedEx DO NOT TRANSPORT CASH. We certify that this package does not contain any hazardous or restricted materials prohibited by postal regulations and does not require the filing of Electronic Export Information (EEI) (formerly Shippers Export Declaration (SED)), and that the particulars given in the Shipment Information section are as declared. Submission of false information may result in civil or criminal penalties (19 USC 100), 31 USC 3802.

Sender's Signature: J. J. Jueves

Postage Date <u>02/07/09</u>	Time <u>8:51 AM</u>	Scheduled Delivery Date <u>02/19/09</u>	PO ZIP (+4) Code <u>00938</u>	Employee # <u>0</u>
Classification of Article (Non-Documents/Postal)		Weight <u>5.2</u>	Postage <u>\$41.95</u>	Insurance Fee <u>N/A</u>
Priority <u>DXC Envelope or Pak</u>		Customer Packaging <input type="checkbox"/> Box <input type="checkbox"/> Envelope <input type="checkbox"/> Other	Total Postage & Fees <u>\$41.95</u>	
				8982 8026 8727

USPS  
Tracking  
Number

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Rev. Date 4/25  
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PRINTED IN U.S.A.  
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